IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17378 of 2004

Between:

K.Rama Chary, S/o Rama Chokaiah,
C/o Rajalaxmi Fertilizers, Suryapet Road, Kodad, Nalgonda District

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Nalgonda Region, Nalgonda

District
2 The Depot Manager, APSRTC Suryapet Bus Depot, Nalgonda

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e., w.e.f.21-04-1997 to 4-1-2001) as illegal, arbitrary and unjust and consequently direct the respondent to pay the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement (i.e.,w.e.f.21-04-1997 to 4-1-2001).

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondents.: MR.V.T.M.PRASAD

The Court at the stage of admission made the following :

O R D E R:

The petitioner was working as a Conductor in the respondent-Corporation. He was removed from service on 21-4-1997 and reinstated on 04-01-2001. Though the award dated 19-6-2001, the Industrial Tribunal directed the respondent to reinstate the petitioner without back wages but with continuity of service. Though the petitioner was reinstated, his grievance is that the respondent is not giving him the benefit of continuity of service. Therefore, he approached this Court seeking a direction to the respondent to work out the notional increments for the period during which he was out of service, and to fix the pay according to the rules. The Industrial Tribunal also directed that there shall be stoppage of two increments to the petitioner without cumulative affect.

The petitioner worked as a conductor and his reinstatement is not disputed. He is claiming the benefit of continuity of service for the period he was out of service i.e., from the date of removal till the date of reinstatement. In the light of the judgment of a Division Bench of this Court in W.A.No.428 of 2001 preferred against the W.P.No.12007 of 2001, the petitioner is entitled for the benefit continuity of service and he is entitled for notional increments. Since this is not a case of un-authorized absence and as it is a case of ticket irregularity, the judgment of the Supreme Court in **A.P.S.R.T.C AND ANOTHER v. S. NARASA GOUD** is not applicable to the facts of this case. The respondent is therefore, directed to extend the benefit of notional increments to the petitioner from the date of removal till the date of reinstatement i.e., 21-4-1997 to 04-01-2001 on the basis of those notional increment to fix the pay of the petitioner for the period subsequent to the date of his reinstatement.

Accordingly, the Writ Petition is allowed. No order as to costs.

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28th September, 2004.

Mrb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manager, APSRTC, Nalgonda Region, Nalgonda

District
2 The Depot Manager, APSRTC Suryapet Bus Depot, Nalgonda

3. Two CD copies